

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6967

BILL NUMBER: SB 309

NOTE PREPARED: Dec 26, 2002

BILL AMENDED:

SUBJECT: Rape.

FIRST AUTHOR: Sen. Bowser

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill adds a new classification to the crime of rape by providing that a person who has sexual intercourse with another person when the other person has not voluntarily consented commits rape as a Class C felony. It makes the offense a Class B felony if the other person is so physically disabled or deficient as to be unable to give consent. (Current law provides that rape is a Class B or a Class A felony, depending upon the circumstances.)

Effective Date: July 1, 2003.

Explanation of State Expenditures: A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances, and the average length of stay is two years. A Class B felony is punishable by a prison term ranging from 6 to 20 years, and the average length of stay is 3.7 years.

Between FY 1997 and 2001, an average of 45 offenders a year were committed to a Department of Correction facility for Class B felony rape. There are no data available to indicate whether offenders incarcerated for Class B felony rape would be convicted of Class C felony rape or if additional offenders would be convicted under the bill. To the extent that offenders who would have been convicted of Class B felony rape would be convicted of Class C felony rape, the number of beds needed for Department of Correction facilities could decrease in the long run. If additional offenders are convicted, the number of beds needed could increase.

The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be

housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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